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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,880	11/20/2003	Per-Ola Anders Orvendal	MS#303477.01 (5076)	9365
38779 7590 11/27/2007 SENNIGER POWERS (MSFT) ONE METROPOLITAN SQUARE, 16TH FLOOR ST. LOUIS, MO 63102			EXAMINER CHANKONG, DOHM	
			ART UNIT 2152	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/717,880	Applicant(s) ORVENDAL ET AL.	
	Examiner Dohm Chankong	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>11/20/03, 10/10/06</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

- 1> Claims 1-29 are presented for examination.
- 2> This is a non-final rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

- 3> Claims 10-21 and 29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Functional descriptive material, consisting of data structures and computer programs, impart functionality when employed as a computer component. In general, functional descriptive material claimed as part of a computer-readable medium is considered statutory under §101 because such a claim “defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure’s functionality to be realized.” See MPEP §2106.01(I).

Here, claims 10 and 29 recite computer-readable media having computer-executable instructions. Claims 11-15 recite computer-readable media having computer-executable components. Claims 16-21 recite computer-readable medium having a data structure stored thereon. Applicant’s specification discloses that computer-readable media is intended to

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cover carrier waves, modulated data signals, and wireless media such as acoustic, RF, and infrared [pg. 5-6, 0022 | pg. 12, 0039].

Such media are not physical articles or objects and would not be structurally and functionally interconnected to the computer-executable instructions (or components, data structure) in such a manner as to enable the instructions to act as a computer component and realize any functionality. Therefore, claims 10-21 and 29 are rejected for reciting non-statutory subject matter.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4> Claims 4, 7, 21, and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claim 4 lacks proper antecedent basis: "the delivery";
- b. Claim 7 is rejected for containing confusing language. Claim 7 recites in relevant part "selecting the content data attribute having content data *with the longest length that fits on a display*." With respect to the italicized portion, it is unclear what is meant by data having the "longest length" in relation to how the content data is to be displayed.

That is, it is unclear what attribute of the "data" that "longest length" is intended to measure. For instance, if the data is a text document, is the length

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supposed to refer to the length of the document? If the data is an image, is the length intended to refer to the image's dimensions? Furthermore, it is far from clear how the modifier "longest" is to be interpreted in relation to fitting the data on the display. Applicant's specification provides no guidance as to the proper interpretation of the claim limitation.

So, for the purposes of this action, the limitation will be interpreted as referring to the selecting the content data based on whether the physical dimensions of the content data fit on the display of the user device. However, Applicant should amend the claims to clarify the issues discussed above;

- c. Regarding claim 21, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d);
- d. Claim 22 lacks proper antecedent basis : "the user device."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5> Claims 1, 6, 9-11, 15, 16, 18, 20, 21, 26, 27, and 29 are rejected under 35 U.S.C §102(e) as being anticipated by Colson et al, U.S Patent No. 6.708.217 ["Colson"].

6> As to claims 1 and 10, Colson discloses a method for processing a notification, said method comprising:

accessing a data packet representing the notification, said data packet having at least one content type attribute [Figure 4A «item 410» | column 2 «lines 41-57» where : Colson describes the well known feature that packets contain content type identifiers that describe the content types being delivered within the packet], said content type attribute having a content data attribute associated therewith storing non-rendered content data [column 2 «line 50 and 55» | column 7 «lines 45-51» where : each entry of the packet are "to be rendered" by respective devices];

determining at least one characteristic of a user device based on a capability of the user device to process content data [column 4 «lines 30-41 and 48-60» where : Colson determines capabilities of network devices by submitting a query or checking a database];

selecting one of the content type attributes for processing by the user device based on the determined characteristic [column 7 «line 57» to column 8 «line 14»].

7> As to claim 6, Colson discloses receiving the data packet via a data communication network from a content provider [Figure 2 «items 230, 240» where : Colson's server reads on Applicant's claimed content provider].

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8> As to claim 9, Colson discloses accessing the data packet having a plurality of content type attributes [Figure 3], said content type attributes each having a content data attribute associated therewith, wherein one of said content data attributes stores non-rendered content data [column 7 «lines 45-51» where : each entry of the packet are “to be rendered” by respective devices].

9> As to claims 11 and 15, they merely disclose a computer-readable media having components that execute the methods of claims 1 and 6, respectively. As such, claims 11 and 15 are rejected for at least the same reasons set forth for claims 1 and 6, respectively.

10> As to claim 16, Colson discloses a computer-readable medium having stored thereon a data structure representing a notification, said data structure comprising:

a plurality of content type attributes, each of said content type attributes storing a value identifying a content type [column 7 «lines 47-51»];

a content data attribute for each of the plurality of content type attributes, said content data attribute storing content data of the content type identified by the content type attribute corresponding thereto [column 2 «lines 45-58» | column 7 «lines 47-51»], wherein one of the content type attributes has a content data attribute associated therewith storing non-rendered content data [column 7 «lines 45-51» where : each entry of the packet are “to be rendered” by respective devices], and wherein a computing device selects one of the content type attributes and processes the content data stored in the content data attribute associated therewith [column 7 «line 57» to column 6 «line 14»].

11> As to claim 18, Colson discloses wherein the content type comprises one or more of the following: hypertext markup language, text, graphics, extensible markup language, audio, and video [column 7 «lines 47-51»].

12> As to claim 20, Colson discloses the content type attribute comprising formatting information for the content data [column 7 «lines 41-51» : text having ASCII or HTML formatting].

13> As to claim 21, Colson discloses the computing device comprising a gaming device, and wherein the non-rendered content data includes metadata [column 7 «line 21» where : Colson's handheld mobile computer is a gaming device | column 8 «lines 53-62»].

14> As to claims 26 and 29, Colson discloses a method for processing a notification to be delivered via a data communication network, said method comprising:

accessing, prior to delivery of the notification, a data packet representing the notification, said data packet having at least one content type attribute [Figure 4A «item 410» | column 2 «lines 41-57» where : Colson describes the well known feature that packets contain content type identifiers that describe the content types being delivered within the packet], said content type attribute having a content data attribute associated therewith storing non-rendered content data [column 2 «line 50 and 55» | column 7 «lines 45-51» where : each entry of the packet are "to be rendered" by respective devices];

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determining at least one characteristic of a user device based on a capability of the user device to process content data [column 4 «lines 30-41 and 48-60» where : Colson determines capabilities of network devices by submitting a query or checking a database];

selecting one of the content type attributes for processing by the user device based on the determined characteristic [column 7 «line 57» to column 8 «line 14»]; and

sending the notification to the data communication network as a function of the selected content type attribute to provide content data formatted for the user device [column 7 «line 47» to column 8 «line 14» : sending the data packet based on the content type in the data packet].

15> As to claim 27, as it does not teach or further define over previously claimed limitations, it is rejected for at least the same reasons set forth for claim 6.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16> Claims 2-4, 12-14, and 28 are rejected under 35 U.S.C §103(a) as being unpatentable over Colson.

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17> As to claim 2, Colson does disclose defining a filtered data packet [Figure 2 «items 270f, 270c, 270d» | column 9 «lines 17-19»] but does not expressly disclose that the filtered data packet includes the content type attribute and content data attribute. However, Colson does disclose that filtered data content includes the content data and the “document content” from the original packet sent from the server [column 7 «lines 57-62» | column 9 «lines 17-19»]. Colson discloses the use of content-type attribute and content data attribute within data packets [column 2 «lines 35-57»]. Thus, one of ordinary skill in the art could have reasonably inferred that Colson’s filtered data packet (that is sent to the corresponding devices) comprises the content type and content data attributes from the original data packet

18> As to claims 3 and 13, Colson discloses sending the filtered data packet to a data communication network for processing [column 7 «line 57» to column 8 «line 15» where : Colson discloses routing the content (filtered from the original data packet) to the respective devices for rendering].

19> As to claims 4 and 14, Colson discloses effecting the delivery of the filtered data packet via a data communication network to the user device for processing [column 7 «line 57» to column 8 «line 15» where : Colson discloses routing the content (filtered from the original data packet) to the respective devices for rendering].

20> As to claim 12, as it does not teach or further define over previously claimed limitations, it is rejected for at least the same reasons set forth for claim 2.

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21> As to claim 28, Colson discloses:

defining a filtered data packet including the selected content type attribute and content data attribute associated therewith [see rejection of claim 2]; and

sending the filtered data packet to the data communication network to provide content data formatted for the user device [column 7 «line 57» to column 8 «line 14»].

22> Claims 5, 17, 19, and 22-25 are rejected under 35 U.S.C §103(a) as being unpatentable over Colson, in view of Horvitz et al, U.S Patent No. 6,980,993 [“Horvitz”].

23> As to claim 5, Colson does not disclose that the data packet comprises a device hint attribute and its related claimed functionality. However, a data packet comprising a device hint attribute storing a characteristic representative of a specific user device was well known in the art at the time of Applicant’s invention. Horvitz specifically discloses a device hint attribute storing a characteristic value representative of a specific user device, said device hint attribute being associated with one of the content type attributes, and wherein selecting one of the content type attributes comprises selecting one of the content type attributes to process based on the determined characteristic of the user device and the characteristic value stored in the device hint attribute [column 33 - Table 1A-continued : “Device preferences/hints” | column 38 «lines 9-18»].

It would have been obvious to one of ordinary skill in the art to have modified Colson

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to include Horvitz's teaching of device hint functionality. One would have been motivated to modify Colson so as to insure that content types are routed to appropriate devices that can properly render the content types.

24> As to claims 17 and 19, as they do not teach or further define over previously claimed limitations, they are rejected for at least the same reasons set forth for claim 5.

25> As to claim 22, Colson discloses a system for processing a notification, said system comprising:

a second memory area to store a device characteristic of one or more computing devices associated with the user [Figure 3];

an alerts service adapted to receive a data packet from a content provider and deliver the received data packet to the computing devices based on the device characteristic stored in the second memory area, wherein said received data packet includes non-rendered content for use by the user device [column 7 «line 47» to column 8 «line 14»].

Colson does not expressly disclose storing user routing preferences. However, user routing preferences in the context of a multi-content notification system was well known in the art at the time of Applicant's invention. However, Horvitz discloses a first memory that stores user routing preferences and delivering data packets based on said routing preferences [column 37 «lines 17-63»]. It would have been obvious to one of ordinary skill in the art to have modified Colson to include Horvitz's teachings of enabling a user to specify how to route packets that contain different types of content. One would have been motivated to

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modify Colson as Horvitz's teaching enhances the user's control over which devices should handle certain content types.

26> As to claim 23, Colson as modified by Horvitz discloses said first memory area storing an ordered list of the computing devices [Figure 3 «item 302» : the second column of the registry reads on the first memory area | column 8 «lines 15-22»].

27> As to claim 24, Colson as modified by Horvitz discloses said second memory area to store the device characteristic identifying a processing capability of the computing devices including one or more of the following: hypertext markup language, text, graphics, extensible markup language, audio, and video [Figure 3 : the first column reading on the second memory area].

28> As to claim 25, Colson as modified by Horvitz discloses the non-rendered content comprises extensible markup language data [column 1 «lines 44-47»].

29> Claims 7 and 8 are rejected under 35 U.S.C §103(a) as being unpatentable over Colson, in view of Warsta et al, U.S Patent No. 2004|0181550 [“Warsta”].

30> As to claim 7, Colson does not expressly disclose selecting the content data attribute having content data with the longest length that fits on a display associated with the user

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device. In a similar field of invention, Warsta is directed to providing a system that retrieves and delivers appropriate content to a device based on the device's capabilities [0009].

Like Colson, Warsta discloses a packet having a content type attribute having a content data attribute that stores content data [Figures 4 and 5]. Warsta expressly discloses selecting the content data attribute having content data with the longest length that fits on a display associated with the user device [0051, 0030, 0056, 0057 where : Warsta discloses selecting content data based on the length (the data's memory size or "maximum size") of the content data and whether the length is appropriate for the user device. Warsta does not disclose selecting content data based on "longest length" but as discussed in the §112 rejection above, this term is interpreted as referring generally to the physical characteristics of the content data. Warsta's content selection based on the physical attributes reads on this interpretation of "longest length"].

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to have modified Colson's system with Warsta's content selection functionality. Warsta discloses that selecting content data based on length (memory size or actual physical size) allows users to receive copies of content that is most appropriate for their particular device's capabilities [0009]. Based on Warsta, one of ordinary skill would have been motivated to improve upon Colson's content delivery.

31> As to claim 8, Colson does not expressly disclose truncating content data wherein said truncating occurs responsive to a size restriction associated with a display of the user device. However, such functionality was well known in the time of Applicant's invention as

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evidenced by Warsta. Warsta discloses truncating content data wherein said truncating occurs responsive to a size restriction associated with a display of the user device [0028 where : Warsta discloses reducing an image's resolution to fit on the device's display].

It would have been obvious to one of ordinary skill in the art to have modified Colson's system with Warsta's data truncating functionality. One would have been motivated to modify Colson as Warsta's functionality enables all users to receive content data that is specifically adapted to the capabilities of their devices [see Warsta, 0030]. Such a modification improves Colson's content delivery system by enabling the appropriate content to be delivered to users.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Guck, U.S Patent No. 5,864,870 : Figure 3;

Rudy et al, U.S Patent No. 6,360,252 : column 1 «line 64» to column 2 «line 9»;

Drory et al, U.S Patent Publication No. 20020049817 : Figure 1;

Gottlieb, U.S Patent No. 6,446,118 : column 5 «line 63» to column 6 «line 22»;

Smith et al, U.S Patent No. 6,463,462;

Egli et al, U.S Patent Publication No. 20030110234 : 0054-0056;

Kosiba et al, U.S Patent Publication No. 20030221014 : 0007;

Vasudevan et al, U.S Patent Publication No. 20040267965;

Stiers et al, U.S Patent Publication No. 20050080811 : abstract;

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Giroti et al, U.S Patent No. 7.061.928 : Figure 2;

Marriott et al, U.S Patent No. 7.277.951 : Figure 1.

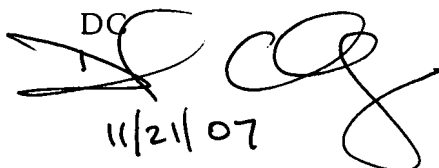
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942.

The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DC
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Handwritten signature and date. The signature is written in cursive and appears to be "DC". Below the signature, the date "11/21/07" is written.